IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Review Petition (Lodging) No. 51 of 2005
In
Writ Petition No. 1229 of 2005

M/s. Top Detective and Security
Services Ltd., Mumbai .. Petitioner
V/s.
The Dy. Commissioner of Income Tax,
Mumbai and Anr. .. Respondents

Mr. K. Gopal for the Petitioner
Dr. P. Daniel with Mr. A.S. Rao for the Respondents

CORAM : DR. S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 12.08.2005.

P.C.:-

1. Heard the learned counsel for the Petitioner and the Respondents. The learned counsel for the Petitioner seeks review of our order dated 12.7.2005 passed in Writ Petition No. 1229 of 2005, wherein we had declined to interfere, however, the learned counsel for the Petitioner brought to our notice that on the very same day, subsequently in Writ Petition No. 1311 of 2005, we had admitted the Petition and granted interim relief and the point of law involved in both these Petitions is identical.

2. Under these circumstances, in view of the apparent error, we recall our order dated 12.7.2005 passed in Writ Petition No. 1229 of 2005, whereby the above Petition was dismissed. Instead, the following order is passed in Writ Petition No. 1229 of 2005:-

1. Heard the learned counsel for the Petitioner

and the learned counsel for the Respondents.

(2)

2. The main grievance of the Petitioner with regard to the order passed under section 142 (2A) of the Income Tax Act dated 29.3.2005 is that the said order was passed without affording an opportunity of hearing to the Petitioner.

3. The learned counsel for the Petitioner also brought to our notice an order passed by a Division Bench of this Court on 27.7.2004 in Writ Petition No. 1314 of 2004 (Maharashtra Distilleries Ltd. Vs. The Deputy Commissioner of Income-Tax 6(3), Mumbai & Ors.), wherein the very same issue was raised and this Court has observed that there are conflicting judgments of various High Courts and there is no direct decision of this High Court with regard to the said issue raised by the Petitioner.

4. Under these circumstances, Rule. There shall be interim relief in terms of prayer clause (c1). The learned counsel for the Respondents waives service.

3. Review Petition stands disposed of.

(DR. S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)